

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

September 5, 2006

CALL TO PODIUM:

Patricia Patula, Planner

RESPONSIBLE STAFF:

Patricia Patula, Planner
Jacqueline Marsh, Planner

AGENDA ITEM:

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
	Public Hearing
<input checked="" type="checkbox"/>	Historic District Commission
	Consent Item
	Ordinance
	Resolution
<input checked="" type="checkbox"/>	Policy Discussion
	Work Session Discussion Item
	Other:

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	
Advertised	
Hearing Date	
Record Held Open	
Policy Discussion	

TITLE:**HISTORIC DISTRICT COMMISSION**

HAWP-37E Applicant Stephen Orens, for Hamza Halici/Halici, Inc.
Request for Demolition of the Historic Talbott House (Hair Bar) at
309 North Frederick Avenue

SUPPORTING BACKGROUND:

The HPAC held a public hearing on this application on July 6, 2006, and continued on August 3, 2006. The request is to allow demolition of the historically designated Talbott House (Hair Bar) based on the applicant's claim of economic hardship.

The attached public hearing record of HPAC, which includes significant public input, is extensive and includes transcripts of both meetings. Exhibits 2 and 3 summarize the history of this demolition request which was first applied for in 1999. The HDC granted approval for the demolition via HAWP-37C in 2003, and granted a time extension which expired on June 5, 2006. The applicant is starting over and reapplying for approval of an HAWP allowing demolition.

At their meeting of August 3, 2006, referencing Section 24-228.2(d), criteria for decision for historic area work permits, the HPAC voted unanimously to recommend denial of this demolition request and made the following findings.

The applicant did not provide evidence sufficient to meet his burden of proof by showing that retention of the historic house creates a substantial financial hardship for the applicant. The financial information presented was incomplete and lacked sufficient detail to make a conclusive case that if any hardship does exist, that it exists solely because of the requirement to retain the historic house on the designated property. The partial information presented did demonstrate that a profitable business

Continued

Attachments: Index of Memoranda, Record of HAWP-37E

DESIRED OUTCOME:

Provide Staff Guidance

had been in operation throughout the applicant's ownership of the site and that this business remains in operation as a profitable business. Although the applicant claimed that additional financial information exists that would support this claim of substantial hardship, including, but not limited to, the relationship between Hamza Halici and Halici, Inc., he refused to disclose that information because of his desire for financial privacy. The information the applicant was willing to provide was not sufficient to prove the applicant's claim.

There was no evidence presented or otherwise provided that differentiated this historic resource from other historic resources, or similarly situated properties, for which reasonable uses have been found, nor was any evidence submitted to show unique aspects to this historic resource that might create a unique burden for the applicant.

The applicant has had substantial time to improve his economic status by finding a buyer or new tenant without the restriction of retaining the historic house during the period in which the approved, but now expired, demolition permit, HAWP-37C, was in effect. However, the applicant, by his own testimony, admits that he did not make any more progress in advancing his economic status during that period than during the period prior to the issuance of the demolition permit in which preservation of the historic house was required under the historic designation.

Additionally, the retention of the historic structure will not be a deterrent to a major improvement program of substantial benefit to the public because its retention benefits the public as part of the implementation of the Frederick Avenue Corridor Plan, which reflects public policy in favor of supporting the preservation of historic resources where possible and appropriate. The plan calls for retaining this historic site and encourages adaptive reuse of the historic house.

Retention will not adversely affect the best interests of the citizens of the community. Instead, public testimony entered into the record by a number of citizens supports preservation of the historic house as crucial to the historic resource described in the designation documents.

Action by the Historic District Commission.

Per Section 24-228.1 (c), the Historic District Commission may render its decision based upon HPAC's recommendations or public comment received before the committee, or in its discretion, hold their own public hearing. The latter would require concurrence with the applicant to extend the time limit for the historic area work permit.

HPAC Public Hearing – July 6, 2006
HPAC Public Hearing – continued August 3, 2006
HDC Policy Discussion – September 5, 2006

**INDEX OF MEMORANDA
HAWP-37E**

**Applicant: Stephen Orens, for Hamza Halici/Halici Inc.
309 North Frederick Avenue
Demolition of Historic Talbott House**

Number	Exhibit
1.	Application
2.	Letter from applicant to HDC dated June 5, 2006
3.	Statement for Support of HAWP prepared by applicant
4.	Photographs of Subject Property
5.	Resolution HDC-2-03 adopted June 2, 2003
6.	Aerial photograph
7.	Notice to include legal ad for public hearing in the June 28, 2006, <i>Gaithersburg Gazette</i>
8.	Public hearing notice, sent out June 26, 2006, to the required parties
9.	Mailing list
10.	Appraisal Report prepared by Peter A. Moholt, MAI, May 9, 2006
11.	Natural Resources Inventory (large size and reduced versions)
12.	Record Plat (large size and reduced version)
13.	By Reference: Annotated Code of Maryland, Article 66B, Historic Resources
14.	By Reference: Secretary of Interior Standards for Rehabilitation
15.	By Reference: HD-17 Designation Documents
16.	By Reference: Qualifications of HPAC, HDC, and staff
17.	By Reference: Historic Preservation Ordinance
18.	By reference: File HAWP-37C
19.	Petition presented at hearing by Peter Winder from residents of Montgomery Avenue and adjacent properties. This exhibit was objected to by Rebecca Willens, Counsel for Mr. Halici

20. Testimony of Wayne Goldstein, President MPI, presented at public hearing
21. Letter from DuFour and Orens dated June 30, 2006 (also e-mail version received) requesting postponement of HDC review to September, 2006
- 21A Memo to HPAC from staff liaison Patula dated July 13, 2006 re additional exhibits from file HAWP-37C

The following selected exhibits are from File HAWP-37C (an earlier request for demolition of 309 North Frederick Avenue) and have been renumbered for purposes of inclusion in this record (HAWP-37E).

22. Index of Memoranda for File HAWP-37C
23. Letter to City Council dated November 3, 1988 from Mr. Halici
24. Minutes of HPAC meeting of November 3, 1988
25. Petition for Historic Designation dated March 3, 1989
26. Memorandum to Linda Michael dated April 5, 1989 from City Attorney Stanley Abrams re conditional petition
27. Maryland Historical Trust Inventory for 309 North Frederick
28. Financial Statement prepared by Michael Kane dated April 25, 1997
29. Minutes of HPAC meeting of April 15, 1999
30. Letter to HDC dated October 4, 1999 from Stephen Orens re demolition application
31. Letter to Mr. Halici dated July 23, 1999 from Steven Karr, AIA, re conversion of the Hair Bar to a restaurant
32. Letter to Ms. Basaman dated September 29, 1999 from Winfree Irvine re financial status
33. Power Point Charts showing financial calculations prepared by applicant
34. Transcript of HDC public hearing October 4, 1999 for demolition
35. Minutes of HDC policy discussion November 6, 2000
36. Letter to Mr. Halici dated November 28, 2000 from Planning Director Jennifer Russel
37. Letter to HDC dated March 27, 2001 from Stephen Orens, a "white paper" to support the request for demolition
38. Excerpt p. 4 from the Special Study Area Frederick Avenue Land Use Plan
39. Letter to HDC dated September 5, 2001 from Ms. Primo with report from Construction Services
40. Letter to Stephen Orens dated December 17, 2001 from Planning Director Russel requesting additional information
41. Memorandum from City Attorney Stanley Abrams dated April 4, 2001 to HDC re the standard to be used for a historic area work permit granting demolition of a historically designated structure
42. Letter to HDC dated February 26, 2002, from Stephen Orens with additional information
43. Cover letter to Ms. Frande dated October 5, 1995 from Peter Moholt re appraisal
44. Financial Statement by Omer & Company, P.A. dated December 31, 2000

- 45. Letter to Ms. Primo dated march 27, 2002 from Planner Patula referencing site visit
- 46. Memorandum to City Managers dated June 13, 2002, from Cliff Lee, Commercial Plans Reviewer for City of Gaithersburg re condition of property
- 47. Letter to City Council/HDC dated January 7, 2003 from Stephen Orens responding to Mr. Lee's memo
- 48. Tax Credit Application sent to Montgomery County May 16, 1991

End of Exhibits from File HAWP-37C.

- 49. Transcript of Public Hearing held July 6, 2006
- 50. E-mail dated July 31, 2006 to the Historic Preservation Advisory Committee from Rebecca Willens, DuFour & Orens re legal standard
- 51. Letter to Mayor Katz dated August 2, 2006 from Margaret Erickson of Washington Grove
- 52. E-mail from Rebecca Willens, DurFour & Orens dated August 2, 2006 additional information
- 53. Written testimony of Wayne Goldstein, President of MPI, dated August 3, 2006
- 54. Transcript of continued Public Hearing of August 3, 2006
- 55. Draft Minutes of HPAC meeting of July 6, 2006
- 56. Minutes of HPAC meeting of August 3, 2006 (not yet prepared)